

# Flathead Reservation Water Management Board

## DRAFT Meeting Minutes

September 29, 2022, from 2:00-4:00 PM

In-person: Flathead Reservation Water Management Board Office  
400 Main Street Southwest, Ronan, MT 59864  
Virtual at Zoom Link: <https://zoom.us/j/91477956595>

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**Board Members Present:** Roger Noble, Kenneth Pitt, Georgia Smies, Clayton Matt, and Amy Coffman. Teresa Wall-McDonald joined meeting at 2:17.

### 1. Call to Order (Board Chair)

- 1.1. Opening Prayer
- 1.2. Attendance
- 1.3. Announce meeting minutes on DNRC & CSKT websites
- 1.4. Adopt agenda

Motion by R. Noble to adopt agenda

Second by K. Pitt

Vote result: Approved (4 to 0)

### 2. Public Comment (for items not on the agenda)

- No public comment

### 3. Board Business (Board Chair)

#### 3.1. Approve minutes for August 4, 2022, and August 11, 2022

Motion by R. Noble to adopt minutes for August 4, 2022

Second by G. Smies

Vote result: Approved (4 to 0)

Motion by R. Noble to adopt minutes for August 11, 2022

Second by G. Smies

Vote result: Approved (4 to 0)

#### 3.2. Water engineer update (Clayton Matt)

- C. Matt: Water engineer will start the week of October 10<sup>th</sup>.
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#### 3.3. First Call Master Services and Covered - Not Covered Agreements (CSKT-Melissa Schlichting)

- M. Schlichting: In your packet you have both documents associated with website development
- K. Pitt: Did legal counsel review indemnification considerations?
- H. Frandsen: We reviewed this. With this context and this agreement, we didn't see issues with this clause.

Key: Underline = Action item

Normal = Discussion, comment, and/or update

3.4. Interim Domestic Allowance MOU amendment (CSKT-Melissa Schlichting)

- M. Schlichting: This extends to end of the year to allow time to get office staffed up and get non-interim forms developed. The only change is extending the date.
- C. Matt: The technical assistance is great during this time. It doesn't cover administrative assistance and we need to think about the future and whether a similar agreement should be in place after next year for tech team to continue to provide technical assistance and administrative assistance. The office will be small and won't have a lot of back up if someone isn't available. Before the end of year we can have that discussion about what technical assistance the state and CSKT can provide next year.
- M. Schlichting: We can discuss during tech team call about what continued tech assistance we can continue to provide.
- R. Noble: I think it's a good idea
- M. Schlichting: The state and tribal tech team staff meeting on a weekly basis to discuss the agenda and other items. We will add this to the list to discuss and consult with Water Office staff as well.

3.4.1. Public Comment on First Call Agreements and MOU Amendment

- No public comment

3.4.2. Board action on First Call Agreements and MOU amendment

Motion by G. Smies to adopt First Call Master Services and Covered-Not Covered agreements

Second by R. Noble

Vote result: Approved (4 to 0)

- T. Wall-McDonald joined meeting

Motion by K. Pitt to adopt MOU

Second by R. Noble

Vote result: Approved (5 to 0)

3.5. Domestic allowance applications:

3.5.1. Applications in need of discussion:

3.5.1.1. Response to well drilled June 21, 2022

- E. Mace: The office received a response to a letter the board requested seeking more information about a well drilled after June 1, 2022. We initially sent a defect letter. Applicant provided needed information. Board sent this letter and the applicant responded. Ethan Mace shared copy of applicant's response. Does Board have questions or comments?
- K. Pitt: The important thing for me is we have a record to base a decision. In this case the applicant was unaware and the people who advise him were also unaware. This is a unique situation and I think we should approve the authorization because of the unique facts and services.
- R. Noble: He was trying to be in compliance. I don't think there was any ill or malicious intent.
- Georgia: Our goal is to help people get into compliance. This applicant did everything we asked after becoming aware.
- T. Wall-McDonald: I think we should support authorization. It was only a misunderstanding.
- C. Matt: Approving this application because of the unique circumstances and facts of this application does not create a policy. This is considered on a case by case basis.

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Motion by T. Wall-McDonald to authorize  
Second by K. Pitt  
Vote result: Approved (5 to 0)

3.5.2. Applications recommended for authorization (Board-Anna Butterfield)

3.5.3. Board action on domestic allowance authorizations

Motion by R. Noble to authorize the attached 11 applications recommended for authorization.  
Second by G. Smies  
Vote result: Approved (5 to 0)

3.6. Human Resources

3.6.1. Water conservation specialist update (DNRC-Pelah Hoyt)

- P. Hoyt: The human resources committee met to review the qualified candidates and identified four candidates to interview and additional backup candidates. The committee recommends asking Aimee Saylor from the HR firm to set up interviews for after October 17<sup>th</sup>. Aimee recommends that one person conduct the interviews and report back to the rest of the committee because of the challenges associated with scheduling additional people. The state tribal tech team recommends that Ethan and at least one member of the committee participate in the interviews. Who is available from the committee to participate in interviews?
- C. Matt: The recommendation is that Ethan conduct the interviews. He will be full time. I request a Board member participate in the interviews.
- G. Smies volunteered to participate in interviews.
- K. Pitt: Applicants need to be screened for authorization to work in the United States.
- C. Pitt: Please explain this question.  
K. Pitt: Going down the list of applicants some names looked international, and we ran into the questions when hiring the engineer. If we spend time on the interview, we want to make sure they are authorized to work in US  
P. Hoyt: I will contact Aimee and ask her to confirm this with interview candidates before setting up interviews.

3.6.2. Personnel policy update (DNRC-Pelah Hoyt)

- P. Hoyt: The committee has done significant work on the policy and sent the policy to Ethan for his review.
- K. Pitt: I would like to compliment the sub-committee. It's a big undertaking
- C. Matt: Given the next steps, the Board should maybe see a draft now to give them extra time to review and to ask questions for the legal team to answer as they review it.
- K. Pitt: That is a good idea. I would like Ethan's comments included.
- Board agreed by consensus on the suggestions.

3.7. Office of the Engineer Operations

3.7.1. Operations update (Board-Anna Butterfield and/or Ethan Mace)

- E. Mace: We closed the office first three days of this week. We opened at 8:30 this morning and may need to close it tomorrow because of staffing limitations.
- A. Butterfield: Cristy is on top of things, so I am having more time to work on other tasks.

3.7.2. Confirm start date for using frwmb.org email (Board-Anna Butterfield)

- C. Matt: Ken and Roger are still having glitches. I am trying to use it.

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- G. Smies: It is working for me.
- K. Pitt: I am playing phone tag with the help desk.
- Georgia and Clayton are ready to use the board email exclusively

3.7.3. KelleyConnect onboarding meeting update (Ethan Mace)

- E. Mace: Today's meeting was cancelled due to illness at Kelley Connect. They will reschedule next week.

3.7.4. Covid guidance for Board and staff (Ethan Mace)

- E. Mace: I have a couple of handouts of the proposed guidance. As the office moves forward and people continue to catch covid I thought it would be good to establish guidance for the Board and staff. We opted to adopt CDC's guidance. This is proposed adoption of CDC's guidance for testing positive or a close contact. The board could adopt other approach such as the Tribes', counties' or states. As I understand it the Tribe is adopting the CDC recommendation. The state's policy is from a previous era and is more conservative than what the CDC is offering.
- C. Matt: I am assuming this should be part of personnel policy.
- E. Mace: That would be the ultimate destination.
- C. Matt: I suggest we adopt now as an interim step and have it added to the personnel policy for review then.
- K. Pitt: I agree.
- T. Wall-McDonald: I would like to adopt it as an interim policy. I would be reluctant to adopt it into personnel policy. I think it's important to include a general statement in the personnel policy. Such as "When circumstances dictate we will look to CDC for guidance. I like having a reasonable interim policy. That said, I think we should have someone in the office as much as possible.
- C. Matt read guidance proposal out loud.
- R. Noble: I agree with what Teresa said, but I have a questions for Ethan. Is this directly from the CDC?
- E. Mace: Yes, Pelah did a direct copy and paste from CDC.
- C. Matt: The attachment is from the CDC website and that would be available to answer questions about what to do if someone is exposed and what to do if they test positive.
- G. Smies: I think the guidance is general enough that we can accept this.
- K. Pitt: I agree with Georgia.
- E. Mace: I want to be clear that someone who is ill with COVID would not be forced to come into the office.

Motion by G. Smies to authorize CDC guidance as interim guidance

Second by R. Noble

Vote result: Approved (5 to 0)

3.7.4.1. Public comment on covid guidance

- No public comment

3.7.4.2. Board action on covid guidance

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### 3.8. Interim Process for Subdivision Application update & next steps (DNRC-Pelah Hoyt)

- P. Hoyt: Earlier this year, the Board learned that people on the reservation could not complete subdivisions or boundary adjustments after the Compact went into effect. As part of subdivision review, DEQ requires a determination of by the water rights authority that the applicant has the water rights or can get the water rights necessary to fulfill the goals of the subdivision. Since DNRC does not have authority to administer water rights on the reservation, DNRC could not complete the water right pre-determination. This created a regulatory gap. The Board asked the technical team to identify a solution. We have done so and can report back on an interim solution and let you know that DNRC is ready to begin acting in the role identified in the flowchart provided to the Board.
- P. Hoyt: The tech team shared a draft of this flowchart at a previous meeting. Roger also participated in this effort to identify a solution. DEQ says this proposal will meet its needs for the types of water rights available in the interim process. For most applicants it will be a two-step process. The applicant will contact DNRC and explain their current water use. DNRC will review existing water rights and send a written review of whether existing water uses conform to existing water rights. The applicant can include this DNRC review in their subdivision application. If no new use is proposed, the applicant would proceed with the DEQ process. If a new use is proposed the applicant would follow step two and apply for a domestic allowance to the Board following the Board's established process. The applicant would submit this Board authorization with their application to DEQ as well. DNRC is ready to do these reviews and there are some limitations to this to be aware of. The process is only available for people with new uses that fit the interim process. This does not open the door for other domestic allowance considerations. There are limitations to the review that DNRC can complete because approximately 1500 suspended applications have not been reviewed or authorized by the Office of the Engineer. The 180-day registrations (1300) are in the same situation. There are not water rights for these. They need to be handled separately. DNRC and Ethan are discussing ways to deal with these registrations.
- P. Hoyt DNRC recommends transferring the review responsibilities to the Office of the Engineer when the Board and office is ready for it. This is for further discussion and does not need to be decided now.
- C. Matt: Regarding the transition to the Board, the review of existing WRs would require access to the state database and info is pertinent. That is something that needs to be resolved before we make this decision
- R. Noble: I am reticent for the Office to review of existing water rights. These are state based rights, and we don't have jurisdiction
- C. Matt: If this interim 2-step process works, it could transition to a permanent process
- P. Hoyt: At this time, DNRC is offering to do this as an interim process. DNRC would need further discussions about this becoming permanent.
- C. Matt: We look to the tech team and the Office to give us the best advice and process regarding our next steps. Today, what do you want from us?
- P. Hoyt: This is an update. We also see this as a success because this was a problem for folks. This allows a way forward for those people. We're doing new things here and making some progress while we figure out how to do them. Does anyone have Qs concerns, or want more info? We're not asking Board to do anything different.
- T. Wall-McDonald: I share Roger's concerns.

## 4. Other Updates

### 4.1. Board member updates

- C. Matt: Will Hallee give an update on the items on your list and get any questions from board?

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- H. Frandsen: I need to apologize. It is difficult to hear conversation today. We are working on an artist release, jurisdiction memo meeting, board's by-laws and policies and procedures.
- K. Pitt: Is a jurisdiction memo on your list of topics?
- H. Frandsen: We are going to be discussing how the board is defined and it will include a discussion of how the board is defined in tax status. We will provide that as well in the memo.
- R. Noble: I am curious about the artist release.
- C. Matt: I asked Melissa to ask Rob to provide the release to the artist.
- R. Noble: First Call will need a logo for the website, and I would like to see that moving along.

**5. Public Comment**

- No public comment

**6. Next steps**

- 6.1. Set next meetings and location
  - 6.1.1. October 13, 2022 (in person)
- 6.2. Choose meeting topics

**7. End meeting (Board Chair)**

- Adjourned at 3:15

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Applications Recommended for Board Approval  
Applications for Approval to Construct a Domestic Allowance

Summary:

- 11 applications for authorization

Applications:

1. McGinnis - Individual Domestic Allowance
  - 1 dwelling, 0.7 acres of lawn and garden
2. Morigeau - Individual Domestic Allowance
  - 1 dwelling, 0.7 acres of lawn and garden
3. Speckert - Individual Domestic Allowance
  - 1 dwelling, 0.46 acres of lawn and garden
4. Radionanko - Individual Domestic Allowance
  - 1 dwelling, 0.7 acres of lawn and garden
5. Ridnour - Individual Domestic Allowance
  - 1 dwelling, 0.7 acres of lawn and garden
6. Goggin - Individual Domestic Allowance
  - 1 dwelling, 0.7 acres of lawn and garden
7. Ayora - Individual Domestic Allowance
  - 1 dwelling, 0.7 acres of lawn and garden
8. Forty Seven – Seventy Four - Individual Domestic Allowance
  - 1 dwelling, 0.5 acres of lawn and garden
9. Williams - Individual Domestic Allowance
  - 1 dwelling, 0.12 acres of lawn and garden
10. Mathias - Individual Domestic Allowance
  - 1 dwelling, 0.25 acres of lawn and garden
11. Allen - Individual Domestic Allowance
  - 1 dwelling
  - This well was drilled after May 31, 2022.

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